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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,082	04/27/2001	Benjamin T. Gomez	2100/19	9623
7590	09/22/2004		EXAMINER	
Michael H. Baniak BANIAK PINE & GANNON Suite 1200 150 N. Wacker Drive Chicago, IL 60606			JONES, SCOTT E	
			ART UNIT	PAPER NUMBER
			3713	
			DATE MAILED: 09/22/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/844,082	GOMEZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Scott E. Jones	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 May 2004.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20,25-28 and 34-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20,25-28 and 34-43 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 April 2001 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the reply filed on May 18, 2004 in which applicant responds to the claim rejection. Claims 1-20,25-28 and 34-43 are pending.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-20, 25-28, and 34-43 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Takeuchi et al. (JP 09-108431).

Takeuchi et al. discloses an island of gaming machines wherein lucky mechanical characters are provided on the top of the island to congratulate winning players and to get other players and other potential players attention to the island of gaming machines. Furthermore, the lucky characters can be made to dance simultaneously or separately to generate sound, light, etc.

### ***Response to Arguments***

4. Applicant's arguments filed May 18, 2004 have been fully considered but they are not persuasive.

5. Applicant respectfully traverses the rejection to claims 1-20, 25-28, and 34-43 under 35 U.S.C. 102(b) as being clearly anticipated by Takeuchi et al. (JP 09-108431).

Applicant alleges Takeuchi does not disclose a plurality of attractors linked together, wherein each attractor is respectively associated with an individual machine. Takeuchi discloses an attraction mechanism for each gaming machine (lucky mechanical characters on top of the island of gaming

machines). However, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a plurality of attractors linked together, wherein each attractor is respectively associated with an individual machine) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant alleges the most distinctive feature between Takeuchi and the instant invention is the gaming machines of Takeuchi do not have a lucky character associated with each machine. The examiner respectfully disagrees. The term "Associated" is open to loose interpretation by virtue of the definition of the word. Merriam-Webster's Collegiate Dictionary, Tenth Edition, defines associated as bringing together or into relationship in any of various intangible ways; or to combine or join with other parts; or closely connected with one another. Therefore, the examiner contends the at least two lucky mechanical characters on top of the island of gaming machines anticipates "having a lucky character associated with each machine." Thus, Takeuchi anticipates claims.

Applicant alleges Takeuchi lacks disclosing if a predetermined event occurs on any one of the gaming machines, then the attraction mechanisms on each gaming machine are operated as a group. The examiner respectfully disagrees. Takeuchi discloses the lucky mechanical characters can be made to dance simultaneously as a group to congratulate winning player(s) [0046]. Furthermore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., if a predetermined event occurs on any one of the gaming machines, then the attraction mechanisms

on each gaming machine are operated as a group) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

For the reasons discussed hereinabove, the examiner maintains the rejection as stated in Office Action, Paper No. 14.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (703) 308-2064. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones  
Examiner  
Art Unit 3713

sej

